

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 21-cr-11 (JRT/TNL)

Plaintiff,

v.

ORDER

Josbel Eliazar Araujo Castillo,

Defendant.

This matter comes before the Court on Defendant Josbel Eliazar Araujo Castillo's Motion to Extend Dates (ECF No. 21) and Motion to Exclude Time Under the Speedy Trial Act (ECF No. 23). Defendant has also filed a Statement of Facts in Support of Defendant's Motion for Extension of Time to File Motions (ECF No. 22). Defendant requests a two-month continuance of the deadline to file motions and corresponding dates, including his motions hearing date and trial date. (ECF No. 21 at 1.) Defendant requests this continuance on the basis that the discovery he has received from the Government is "voluminous" and he needs more time to review the materials with his counsel using the assistance of a Spanish interpreter. (*Id.*; *see also* ECF No. 23 at 1 (detailing discovery to be reviewed).) The Government has no objection to the requested continuance. (*Id.*; *see also* ECF No. 23 at 1.)

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the

COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹

On January 28, 2021, Chief Judge Tunheim entered General Order No. 25, which continues all in-person hearings, unless the presiding judge determines that an in-person hearing is necessary, through March 14, 2021, and orders that no new criminal trial may commence before March 15, 2021. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 25 (D. Minn. Jan. 28, 2021).

General Order No. 25 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 25 further provides that, if the defendant declines to consent to proceeding by videoconferencing or telephone conferencing, the matter can be continued until an in-person hearing can be held and time may be excluded under the Speedy Trial Act.

The Court inquired whether Defendant consented to conducting the criminal motions hearing using videoconferencing. (ECF No. 19.) Defendant indicated through

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

² See also General Order No. 19, which went into effect on September 26, 2020, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota," *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 19 (D. Minn. Sept. 25, 2020); General Order No. 24, which went into effect on December 25, 2020, vacated General Order No. 19, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 24 (D. Minn. Dec. 22, 2020).

counsel that he consents to videoconferencing for the criminal motions hearing. (ECF No. 20.) Consistent with the health and safety protocols of this Court and the facility in which Defendant is detained, the criminal motions hearing will be held by videoconference and continued to April 29, 2021.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting such a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his attorney reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion to Extend Dates (ECF No. 21) and Motion to Exclude Time Under the Speedy Trial Act (ECF No. 23) are **GRANTED**.
2. The period of time from **February 1, 2021 through April 29, 2021**, shall be excluded from Speedy Trial Act computations in this case.
3. All motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **April 5, 2021**. D. Minn. LR 12.1(c)(1).
4. **Counsel must electronically file a letter on or before April 5, 2021, if no motions will be filed and there is no need for hearing.**
5. All responses to motions must be filed by **April 19, 2021**. D. Minn. LR 12.1(c)(2).
6. Any Notice of Intent to Call Witnesses must be filed by **April 19, 2021**. D. Minn. LR 12.1(c)(3)(A).
7. Any Responsive Notice of Intent to Call Witnesses must be filed by **April 22, 2021**. D. Minn. LR 12.1(c)(3)(B).
8. A motions hearing will be held pursuant to Federal Rules of Criminal

Procedure 12(c) where:

- a. The Government makes timely disclosures and a Defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or
 - b. Oral argument is requested by either party in its motion, objection or response pleadings.
9. If required, the motions hearing must be heard before Magistrate Judge Tony N. Leung on **April 29, 2021, at 1:00 p.m., and will occur by Zoom videoconferencing technology.** D. Minn. LR 12.1(d). Login information will be provided to counsel closer to the hearing date.

10. TRIAL:

- a. IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT: the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to Chief District Judge John R. Tunheim on or before **June 1, 2021.**

This case must commence trial on **June 7, 2021, at 9:00 a.m.** before Chief District Judge John R. Tunheim in Courtroom 15, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS,** Minnesota.

- b. IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Tunheim to confirm the new trial date.**

Dated: February 4, 2021

s/Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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